

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 26, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
 Honorable Tom Craddick, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1879 by Williams (Relating to the regulation of controlled substances; providing an administrative penalty.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1879, Conference Committee Report: a positive impact of \$1,220,000 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$665,000
2009	\$555,000
2010	\$505,000
2011	\$455,000
2012	\$405,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/(Cost) from <i>STATE HIGHWAY FUND 6</i>	Change in Number of State Employees from FY 2007
2008	\$665,000	(\$729,551)	3.0
2009	\$555,000	(\$127,451)	3.0
2010	\$505,000	(\$127,451)	3.0
2011	\$455,000	(\$127,451)	3.0
2012	\$405,000	(\$127,451)	3.0

Fiscal Analysis

The bill would amend the Health and Safety Code relating to the regulation of controlled substances. The bill would amend the Health and Safety Code, Section 481 by establishing a late fee for each renewal of a registration to manufacture, distribute, analyze, or dispense a Schedule II Prescription.

The bill would also establish a process and procedures for administrative penalties regarding violations. The bill states the late fee may be up to \$50 for registrants that do not renew their Controlled Substance Registration Certificate.

The bill states administrative penalties may not exceed \$1,000 for each violation per day, the violation continues and that the violation may not exceed \$20,000. The bill states an advisory committee will be created to advise the Department of Public Safety on the implementation of this Act including who would be on the committee and the process and procedures on what the committee shall consider.

The bill states that the advisory committee shall provide a recommendations report to various leadership offices by July 1, 2008. The bill also states that a prosecution report must be provided to the House Committee on Public Health and Senate Committee on Health and Human Services. The bill also amends the Occupations Code relating to a pain treatment review committee to review treatment for severe chronic or acute pain. The bill would take effect immediately if two-thirds of the House of Representatives and Senate members vote to enact the legislation. If it does not receive the vote necessary for immediate impact, the bill would take effect on September 1, 2007. The bill would apply to offenses after September 1, 2008.

Methodology

The Department of Public Safety (DPS) assumes the following number of late registrants per year: 7,100 in 2008, 5,100 in 2009, 4,100 in 2010, 3,100 in 2011, and 2,100 in 2012. These estimates are based on an assumption that there will be greater compliance from registrants and fewer late fees each fiscal year. The bill states the late fee may be up to \$50 for registrants that do not renew their controlled substance registration certificate. Based on this fee, DPS estimates that the late fee would generate the following additional General Revenue collections: \$355,000 in 2008 ($\$50 \times 7,100$), \$255,000 in 2009 ($\$50 \times 5,100$), \$205,000 in 2010 ($\$50 \times 4,100$), \$155,000 in 2011 ($\$50 \times 3,100$), and \$105,000 in 2012 ($\$50 \times 2,100$).

In addition, the bill states administrative penalties may not exceed \$1,000 for each violation per day the violation continues and that the violation may not exceed \$20,000. DPS assumes the 25 registrants per month would be charged the maximum \$1,000 fee for all twelve months in the year which would generate \$300,000 in General Revenue collections each year ($25 \times \$1,000 \times 12$). The total General Revenue collected from the two fees would be: \$655,000 in 2008 ($\$355,000 + \$300,000$), \$555,000 in 2009 ($\$255,000 + \$300,000$), \$505,000 in 2010 ($\$205,000 + \$300,000$), \$455,000 in 2011 ($\$155,000 + \$300,000$), and \$405,000 in 2012 ($\$105,000 + \$300,000$).

DPS states that an additional 3 FTEs per year would be required to implement the provisions of the bill due to increased workload (2 clerks and 1 attorney) to process and archive application materials, input registration information into the database, and provide administrative and legal support to the agency. Other operating expenses such as maintenance and repair of office machines and computer equipment, computer supplies, non-capital computer equipment, and furniture and equipment, are also included in the cost estimate. This version of the bill also requires additional data collection and reporting requirements. Included in this fiscal note estimate is an additional \$500,000 in technology costs for system upgrades.

The Board of Pharmacy, the Department of State Health Services, the Office of Administrative Hearings, and the Board of Medical Examiners state that the provisions in the bill would have no significant fiscal impact to their agencies.

Technology

This analysis includes technology cost for computer programming upgrades, computers, printers, and enterprise software agreements totaling \$508,829 in 2008. Fiscal years 2009 through 2012 have a technology impact of \$447 per year for continued enterprise software agreements.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 360 State Office of Administrative Hearings, 405 Department of Public Safety, 503 Texas Medical Board, 515 Board of Pharmacy, 537 State Health Services, Department of, 304 Comptroller of Public Accounts

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